

ORIGINAL UNITED STATES DISTRICT COURT
for the
Northern District of Texas

2018 JUN 20 PM 4:43

DEPUTY CLERK

Dallas Division

Case No. **3-18CV1617-C**

(to be filled in by the Clerk's Office)

Daniel Caldwell

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Jury Trial: (check one) ☒ Yes ☐ No

Parker University

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

COMPLAINT FOR A CIVIL CASE

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Daniel Caldwell	temporarily residing until 8/1/2018 at
Street Address	3711 Southmore Blvd. Apt. xxx	1913 Wild Horse Corral
City and County	Houston, Harris	Lewisville, Denton
State and Zip Code	Texas 77004	Texas 75067
Telephone Number	512-761-5740	
E-mail Address	daniel.caldwell@g.austincc.edu	

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Defendant No. 1

Name	Parker University
Job or Title <i>(if known)</i>	College of Chiropractic
Street Address	2540 Walnut Hill Lane
City and County	Dallas, Dallas
State and Zip Code	Texas 75229
Telephone Number	214-902-3470
E-mail Address <i>(if known)</i>	aklement@parker.edu

Defendant No. 2

Name	
Job or Title <i>(if known)</i>	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	

Defendant No. 3

Name	
Job or Title <i>(if known)</i>	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	

Defendant No. 4

Name	
Job or Title <i>(if known)</i>	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? *(check all that apply)*

☒ Federal question

☐ Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

A. If the Basis for Jurisdiction Is a Federal Question

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

United States Higher Education Act, 20 U.S.C. Sec. 1070 et seq., esp. 1091a and 1091b; Rehabilitation Act of 1973, 29 U.S.C. Sec. 794; Americans with Disabilities Act, 42 U.S.C. Sec. 202, as incorporated against an entity whose services, programs, and activities receive federal funds; and the 5th and 14th Amendments, as incorporated against an institution conducting a quasi-criminal proceeding.

B. If the Basis for Jurisdiction Is Diversity of Citizenship**1. The Plaintiff(s)****a. If the plaintiff is an individual**

The plaintiff, (name) / _____, is a citizen of the State of (name) / _____.

b. If the plaintiff is a corporation

The plaintiff, (name) / _____, is incorporated under the laws of the State of (name) / _____, and has its principal place of business in the State of (name) / _____.

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

2. The Defendant(s)**a. If the defendant is an individual**

The defendant, (name) / _____, is a citizen of the State of (name) / _____ . Or is a citizen of (foreign nation) / _____.

b. If the defendant is a corporation

The defendant, (name) / _____, is incorporated under the laws of the State of (name) / _____, and has its principal place of business in the State of (name) / _____.

Or is incorporated under the laws of (foreign nation) / _____, and has its principal place of business in (name) / _____.

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because *(explain)*:

/

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

On June 20, 2014, defendant Parker University fraudulently expelled plaintiff Daniel Caldwell ("DC") from the Doctor of Chiropractic Program without notice prior to that day of a hearing.

The dean of student affairs had called DC to his office that same day.

At that hearing, DC was not informed of the allegations against him (sexual harassment and vandalism).

DC had not committed sexual harassment nor vandalism, nor any violation of the Code of Student Conduct.

Without due process of fair notice of the allegations against DC nor reasonable opportunity to respond, the committee immediately and permanently dismissed DC from Parker University.

On June 24, 2014, before providing DC with the basis for the dismissal, the Academic and Professional Standards Appeals Committee denied DC's appeal, which requested to know, in identifiable terms, what the allegation(s) against him were.

On June 27, 2014, the university Vice President held that due process was provided, despite lack of notice and opportunity to respond, and despite the conclusions of the committees being unsupported by facts.

On July 21, 2014, the university Provost held that, in addition to upholding the dismissal, DC would be required to pay \$6,444 to Parker University in order to obtain a transcript.

DC timely appealed the ruling of the Provost regarding the \$6,444 to the university President, who never responded directly.

DC sought review by the Texas Higher Education Coordinating Board and by the Department of Education.

Parker University offered to pay \$2,556 and to release DC's transcript in exchange for a waiver of all claims.

When DC requested clarification and made a counter-offer, Parker University withdrew the offer to settle.

The Office of Civil Rights later determined that retaliation for protected free speech is not discrimination.

IV. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

As a result of attendance at Parker University, DC has outstanding student loan debts of \$64,319, notated below. This debt is a fair and approximate representation of the actual, direct, and consequential damages caused by Parker University acting in bad faith, and DC asks that this court order Parker University to pay this amount. In addition to the claims of violation of the federal regulations which resulted in Parker's dismissal of DC and refusal to release DC's transcript, state law grounds for awarding damages include breach of contract, fraud, or quantum meruit. *and Refusal to mitigate damages.*

The \$64,319 amount includes moneys received and held by Parker University for academic credit which DC earned but which Parker University prevented DC from transferring in order to apply to any degree or licensure. This amount is less than DC's net economic damages suffered as a result of lost time and opportunity caused by Parker's refusal to allow transfer of credit from 2013-2014, but is an appropriate estimate to avoid speculation. This amount does not include exemplary or punitive damages that the court may determine are appropriate. Loan Direct Unsubsidized Loan, Date Sep 2013, Disbursed \$33,000, Principal \$35,013, Interest \$6,518, % 5.410 Total \$41,531

Loan Direct Unsubsidized Loan, Date May 2014, Disbursed \$9,987, Principal \$10,317, Interest \$1,921, % 5.410 Total \$12,238

Loan Direct PLUS Loan, Date Sep 2013, Disbursed \$8,051, Principal \$8,637, Interest \$1,913, % 6.410 Total \$10,550

Status DA, Servicer DEPT OF ED/GREAT LAKES

V. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 06/20/2018

Signature of Plaintiff /s/ Daniel Caldwell

Printed Name of Plaintiff Daniel Caldwell

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by the rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Daniel James Caldwell

DEFENDANTS

Parker University, College of Chiropractic

CLERK U.S. DISTRICT COURT
 NORTHERN DISTRICT OF TEXAS

(b) County of Residence of First Listed Plaintiff Harris, Texas
 (EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Dallas, Texas
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Pro Se, 3711 Southmore Blvd, Apt xxx
 Houston, TX 77004, phone number 512-761-5740

8-18CV1617-C

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation - Transfer
☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

20 U.S.C. Sec. 1091b - Institutional refunds, 29 USC 794, 42 USC 202

Brief description of cause:

University fraudulently dismissed plaintiff, withholds transcripts, and claims refund amount is not a refund but is owed to scho

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
 64,319

CHECK YES only if demanded in complaint:
 JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

6/19/2018

SIGNATURE OF ATTORNEY OF RECORD

/s/ Daniel Caldwell

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE